

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

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PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARKUS WIMMER,
SERGE VOS and MARCUS JAUTZE

Application No. 09/873,290

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on November 12, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

First, an examination of the file reveals that a Supplemental Information Disclosure Statement (IDS) was filed October 1, 2003 (Paper No. 13). It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

Second, section 1208 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 1, Feb. 2003) states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held. [Emphasis added.]

The Examiner's Answer mailed June 18, 2003 (Paper No. 10) does not comply with the above requirement because only one conferee's signature exists in addition to the Primary Examiner's signature.

Accordingly, it is

ORDERED that the application is returned to the
Examiner:

1. to consider the IDS filed October 1, 2003 (Paper No. 13) and appropriately notify appellants regarding the Primary Examiner's decision;
2. to take corrective action regarding the appeals conference; and
3. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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